

## Fiscal Estimate - 2009 Session

☒ Original
 ☐ Updated
 ☐ Corrected
 ☐ Supplemental

<b>LRB Number</b> <b>09-4161/1</b>	<b>Introduction Number</b> <b>AB-0775</b>	
<b>Description</b> Throwing or expelling a bodily substance at a public safety worker and providing a penalty		
<b>Fiscal Effect</b>  <b>State:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> No State Fiscal Effect  <input checked="" type="checkbox"/> Indeterminate                      <input type="checkbox"/> Increase Existing Appropriations                      <input type="checkbox"/> Decrease Existing Appropriations                      <input type="checkbox"/> Create New Appropriations                 </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Revenues  <input type="checkbox"/> Decrease Existing Revenues                 </div> <div style="width: 35%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget                      <input type="checkbox"/> Yes                      <input type="checkbox"/> No  <input type="checkbox"/> Decrease Costs                 </div> </div> <b>Local:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> No Local Government Costs  <input checked="" type="checkbox"/> Indeterminate                      1. <input type="checkbox"/> Increase Costs                      3. <input type="checkbox"/> Increase Revenue                          <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory              <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                      2. <input type="checkbox"/> Decrease Costs                      4. <input type="checkbox"/> Decrease Revenue                          <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory              <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                 </div> <div style="width: 65%;"> <b>5.Types of Local Government Units Affected</b>  <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> Towns  <input type="checkbox"/> Counties  <input type="checkbox"/> School Districts                         </div> <div style="width: 30%;"> <input type="checkbox"/> Village  <input type="checkbox"/> Others  <input type="checkbox"/> WTCS Districts                         </div> <div style="width: 35%;"> <input type="checkbox"/> Cities                         </div> </div> </div> </div>		
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<b>Agency/Prepared By</b> DA/ Phil Werner (608) 267-2700	<b>Authorized Signature</b> Harald Jordahl (608) 261-7520	<b>Date</b> 3/3/2010

## **Fiscal Estimate Narratives**

**DA 3/3/2010**

LRB Number	<b>09-4161/1</b>	Introduction Number	<b>AB-0775</b>	Estimate Type	<b>Original</b>
<b>Description</b>					
Throwing or expelling a bodily substance at a public safety worker and providing a penalty					

### **Assumptions Used in Arriving at Fiscal Estimate**

Should this bill be enacted, many prosecutors do not anticipate a significant fiscal impact; however, prosecutors with prisons and boot camps in their district anticipate a small fiscal impact.

### **Long-Range Fiscal Implications**

Many prosecutors anticipate an insignificant long-term fiscal impact; but, DAs with prisons and boot camps in their district expect a small long-term fiscal impact.

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<b>Agency/Prepared By</b> DOC/ Dustin Trickle (608) 240-5413	<b>Authorized Signature</b> Robert Margolies (608) 240-5056	<b>Date</b> 3/2/2010

**Fiscal Estimate Narratives**  
**DOC 3/2/2010**

LRB Number	<b>09-4161/1</b>	Introduction Number	<b>AB-0775</b>	Estimate Type	<b>Original</b>
<b>Description</b>					
Throwing or expelling a bodily substance at a public safety worker and providing a penalty					

**Assumptions Used in Arriving at Fiscal Estimate**

Under current law, any person who throws or expels a bodily substance, such as blood, semen, vomit, saliva, urine, or feces, at an emergency medical technician, a first responder, a law enforcement officer, a fire fighter, or a person operating or staffing an ambulance (public safety worker) is guilty of a Class I felony if the person intends to cause bodily harm to the public safety worker. This bill eliminates the element that the person intends to cause bodily harm to the public safety worker.

The Department of Corrections is unable to estimate the number of offenders who may be convicted under the provisions of this bill. The average FY09 annual cost for an inmate in a DOC institution is approximately \$31,800. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food, health care and clothing) of housing a small number of inmates is approximately \$4,900, based on FY09 costs. When there is no excess capacity in DOC facilities, as is currently the case, the Department uses contract beds at a rate of \$18,800 annually per person.

State costs could also increase if additional offenders are convicted of this crime and placed on probation. The annual cost to supervise one offender is approximately \$2600. County jails would experience increased costs if offenders are sentenced to jail as a condition of probation. Since we don't have any data that would assist us in predicting how many offenders will be convicted under the provisions of the bill, it is not possible to estimate the fiscal impact.

**Long-Range Fiscal Implications**

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<b>Agency/Prepared By</b>  DOJ/ Mark Rinehart (608) 264-9463	<b>Authorized Signature</b>  Mark Rinehart (608) 264-9463
<b>Date</b>  2/25/2010	

## Fiscal Estimate Narratives

DOJ 2/25/2010

LRB Number	09-4161/1	Introduction Number	AB-0775	Estimate Type	Original
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### Assumptions Used in Arriving at Fiscal Estimate

Under s. 941.375, any person who who throws or expels a bodily substance at or toward a public safety worker is guilty of a Class I felony if the person intends that the substance come in to contact with the worker and intends that the substance cause bodily harm to the worker.

Under 2009 Assembly Bill 775, any person who who throws or expels a bodily substance at or toward a public safety worker is guilty of a Class I felony if the person intends that the substance come in to contact with the worker.

While most felony prosecutions are handled by district attorneys, assistant attorneys general in the Department of Justice's Criminal Litigation Unit on occasion act as special prosecutors throughout Wisconsin at the request of district attorneys. In addition, the Department of Justice's Criminal Appeals Unit represents the State of Wisconsin in defending felony convictions when those convictions are challenged in state or federal court. Under Wisconsin law, this unit is charged with preparing briefs and presenting arguments in front of any state appellate or federal court hearing a challenge to a felony conviction.

Since AB 775 broadens the types of activities that can be prosecuted as felonies, it is possible that the enactment of the bill could result in an increased caseload for the department's Criminal Litigation and Criminal Appeals units. The department anticipates that any increased caseload would be relatively small and could most likely be absorbed with existing resources. If the increase is greater than expected the department will require additional resources.

### Long-Range Fiscal Implications

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## Fiscal Estimate Narratives

SPD 3/5/2010

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<b>Description</b> Throwing or expelling a bodily substance at a public safety worker and providing a penalty					

### Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal and certain commitment proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

Although this bill would not create a new crime, it would eliminate the element of intent to cause bodily harm that is necessary under current law for a person to be charged with causing bodily harm for deliberately throwing or expelling a bodily substance at a public safety worker. This change in the law will likely result in additional felony charges under this section, in which some of the defendants would qualify for SPD representation. We are not able to project how many additional SPD cases would result. During the past three fiscal years the SPD has appointed counsel in a total of 107 cases under this section. The SPD's average cost per felony appointed to private bar attorneys was \$584.62 in fiscal year 2009 for the same fiscal year.

Because probation or prison could be ordered upon conviction for the proposed felony crime, this change would indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill would indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2009 for SPD representation by a private bar attorney in a revocation proceeding was \$382.18.

Counties are also subject to increased costs when a new crime is created. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. Thus, the counties would experience increased costs attributable to the higher classification of criminal charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

### Long-Range Fiscal Implications